

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

United Communications Systems, Inc.)	
d/b/a Call One)	
)	
Petition for Arbitration of an)	Docket No. 03-0772
Interconnection Agreement with)	
Illinois Bell Telephone Company d/b/a)	
SBC Illinois, Pursuant to Section 252(b))	
of the Telecommunications Act of 1996)	

**SBC ILLINOIS' RESPONSE TO UCS'S
MOTION FOR PRE-ARBITRATION CONFERENCE**

Illinois Bell Telephone Company d/b/a SBC Illinois ("SBC Illinois"), by its attorneys, hereby files its Response to UCS's Motion for Pre-Arbitration Conference. SBC Illinois does not oppose a pre-arbitration conference, but must correct erroneous assertions in UCS's Motion.

First, UCS asserts that a pre-arbitration conference is necessary because SBC Illinois has "admit[ted] that it is required to respond to at least 40 of [UCS's discovery] requests" yet has failed to produce the responses to such requests. UCS Motion, ¶ 3. SBC Illinois admitted no such thing. Indeed, as explained in SBC Illinois' February 13, 2004 Response to UCS's Motion to Compel (p. 5) SBC Illinois has *offered* to respond "pursuant to an agreement or a ruling that requires SBC Illinois to respond to *thirty* specified interrogatories, data requests, and requests for admission" in order to resolve the discovery dispute with UCS. SBC Illinois' compromise proposal to settle the parties' discovery disagreements was not an admission of anything.

Second, UCS asserts that it should be allowed an additional opportunity to serve follow-up discovery requests on what UCS purports to be SBC Illinois' "new issues." UCS Motion, ¶ 4. UCS's request should be denied because, as explained in the Affidavit of Ronald C. Hill (attached to SBC Illinois' March 15, 2004 Response to UCS's Motion to Strike), the 15 issues

raised by SBC Illinois in its Response are not “new” – they were on the table during the parties’ negotiations.¹ Because these matters were included in the parties’ negotiations, UCS had full opportunity to include data requests regarding them in the discovery it served when it filed its petition. UCS’s election not to do so (and not to set forth these matters for arbitration in its own petition) is not a basis for allowing an additional round of discovery at this point. Moreover, it was six weeks ago – on January 29, 2004 – that SBC Illinois raised the 15 issues in its Response. If UCS needed discovery on those issues, it could have filed a motion and requested to do so at a much earlier date. But again, UCS did not do that. For these reasons, the Commission should reject UCS’s request to submit additional discovery on SBC Illinois’ 15 issues at this late date.

Finally, there is no question that UCS’s and SBC Illinois’ supplemental testimony to be filed on April 8, 2004 is to be limited to responding to Staff’s March 1, 2004 testimony. *See* 83 Ill. Admin. Code § 761.210(i) (Petitioner and Respondent file supplemental testimony responsive to Staff’s testimony 64 days from filing of petition for arbitration). Moreover, UCS erroneously asserts that SBC Illinois conceded that UCS “need not be limited solely to responding to Staff’s testimony.” UCS Motion, ¶ 5. Quite the contrary, what SBC Illinois stated in its Response to UCS’s Motion to Compel (p. 16) was that to the extent UCS’s witnesses found it necessary to address data responses UCS “*may well* be able to” accomplish that in the April 8, 2004 testimony – by which SBC Illinois meant that UCS would be able to do so if the data responses were pertinent to the Staff testimony that UCS would be rebutting. If SBC Illinois believed that the April 8, 2004 testimony was not limited to rebutting Staff’s testimony, SBC Illinois would have said UCS “*will* be able to” accomplish that in supplemental testimony. Further, UCS’s characterization of SBC Illinois’ statement should be rejected for the simple reason that the

¹ The only sense in which the 15 issues SBC Illinois set forth in its Response to UCS’s Petition were “new” is that UCS failed to raise them in its Petition.

statement appears in Section C of SBC Illinois' Response to UCS's Motion to Compel, which is entitled "UCS Should Not Be Allowed to File Supplemental Testimony." UCS's interpretation of SBC Illinois' statement is obviously diametrically opposed to SBC Illinois' leading argument in Section C, and thus, should be rejected.

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Respectfully submitted,

SBC ILLINOIS

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